

# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT Farmington Field Office

6251 N. College Blvd., Ste A., Farmington, NM 87402

[www.blm.gov/nm](http://www.blm.gov/nm)

IN REPLY REFER TO:  
(NMXXXX)

**WPX Energy Production, LLC  
KWU #768H, #769H, #770H, and #771H  
Oil and Natural Gas Wells Project**

**Environmental Assessment, DOI-BLM-NM-F010-2019-0086**

### Decision Record

**Decision:** I have reviewed the Environmental Assessment (EA), DOI-BLM-NM-F010-2019-0086, and the Finding of No Significant Impact (FONSI) that was prepared based upon that EA. Following a review of those documents, it is my decision to implement the Proposed Action as described in the EA. My decision applies only to aspects of the Application for Permit to Drill within BLM's jurisdiction.

**Authorities:** The authority for this decision is contained in the Mineral Leasing Act of 1920, as amended; the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21); the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761-1777); the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (30 U.S.C. 195 et seq.); applicable BLM Onshore Oil and Gas Orders (43 CFR 3160); as well as the Farmington Field Office Resource Management Plan/Final Environmental Impact Statement (2003).

**Compliance and Monitoring:** Compliance will be conducted during the construction phase and drilling phase in compliance with Permanent Instruction Memorandum 2018-014, to insure that all terms and conditions specified in the lease and the approved APDs are followed. In the event a producing well is established, periodic inspections as identified through the Inspection and Enforcement Strategy and independent well observations will be conducted by the BLM Farmington Field Office.

The BLM will routinely inspect operations during all phases of the Proposed Action to verify compliance with applicable laws, regulations, lease terms, the Applications for Permit to Drill and its conditions of approval, Onshore Oil and Gas Orders, Notice to Lessees, and other written orders of the authorized officer.

During drilling, operations will be checked by the BLM to ensure that environmental protective measures conform to what was approved. During the lifetime of the well, production compliance inspections will be conducted by BLM periodically to ensure continued production accountability.

**Terms / Conditions / Stipulations:** As part of the decision, specific terms/conditions/stipulations which are a part of this authorization. Mitigation measures which were analyzed as part of the selected alternative are extracted from the description of the selected alternative and listed below as part of the decision. Anything included here must have been analyzed in the EA.

Refer to Attachment A for any Design Features or Mitigation Measures, now included as Conditions of Approval as a portions of this NEPA Decision.

#### **PLAN CONFORMANCE AND CONSISTENCY:**

The proposed action and alternatives have been reviewed and found to be in conformance with one or more of the following BLM Land Use Plans and the associated decision(s):

Plan: 2003 BLM-FFO Resource Management Plan (RMP).

Date: December 2003

Conformance Review: BLM 2003b, pages, 2-2 – 2-3

Specifically, the proposed action is in conformance with the following objectives:

*“It is the policy of the BLM to make mineral resources available for disposal and to encourage development of mineral resources to meet national, regional, and local needs, consistent with national objectives of an adequate supply of minerals at reasonable market prices. At the same time, the BLM strives to ensure that mineral development is carried out in a manner that minimizes environmental damage and provides for the rehabilitation of affected lands.” (BLM 2003b, 2-2 – 2-3)*

**Alternatives Considered:** The EA considered two alternatives: the Proposed Action and the No Action Alternative. The Proposed Action includes drilling horizontal laterals from a newly constructed well-pad. From the APD, WPX proposes to confine activity and disturbance to the 6.05- acre well site. WPX plans to access the well site via newly constructed access road.

The No Action Alternative was considered in the EA, which consisted of denying the APD. With this No Action Alternative, the BLM would not approve the submitted APD, and the applicant would not be allowed to drill, complete, or produce the proposed horizontal laterals within Federal minerals. The No Action Alternative was addressed in detail in the 2003 FEIS and 2003 RMP.

**Rationale for Decision:** The Proposed Action, with the COAs in Attachment A, has been selected, because it meets the underlying purpose and need for the applicant to exercise their oil and gas lease rights, which allow for the exploration and development of the oil and gas resources. The BLM is approving private exploration and production from the Federal oil and gas lease, because the activity is an integral part of the BLM’s oil and gas leasing and development program under authority of the Mineral Leasing Act of 1920, as amended by the Federal Land Policy and Management Act of 1976 and the Federal Onshore Oil and Gas Leasing Reform Act of 1987.

#### **Administrative Remedies:**

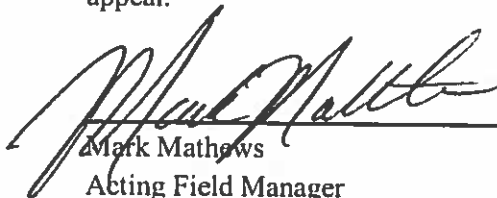
##### **State Director Review**


Under regulations addressed in 43 CFR 3165.3, any adversely affected party that contests a decision of the Authorized Officer may request an administrative review, before the State Director, either with or without oral presentation. Such request, including all supporting documentation, shall be filed in writing with the

BLM New Mexico State Office at 301 Dinosaur Trail, Santa Fe, NM 87508, within 20 business days of the date such decision was received or considered to have been received. Upon request and showing of good cause, an extension may be granted by the State Director. Such review shall include all factors or circumstances relevant to the particular case.

Appeal

Any party who is adversely affected by the decision of the State Director after State Director review, under 43 CFR 3165.3, of a decision may appeal that decision to the Interior Board of Land Appeals pursuant to the regulations set out in 43 CFR Part 4. In accordance with 43 CFR 4.401, the BLM does not accept fax or email filing of a protest, notice of appeal and petition for stay. Any notice of protest, appeal and/or petition for stay must be sent or delivered to the office of the authorized officer by mail or personal delivery. BLM cannot accept electronic submissions of protest or appeal documents due to the Federal Information Systems Security Awareness guidance. Please submit relevant protest or appeal documents in hard copy form for consideration. Any notice of protest, appeal and/or petition for stay must be sent or delivered to the office of the authorized officer by mail or personal delivery, including any attachments to the protest or appeal.

  
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Mark Mathews  
Acting Field Manager  
BLM Farmington Field Office

  
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Date

# **United States Department of the Interior**

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**Environmental Assessment, DOI-BLM-NM-F010-2019-0086**

## **FINDING OF NO SIGNIFICANT IMPACT**

### **Background**

In February 2015, the Bureau of Land Management (BLM) prepared an Environmental Assessment (EA) (DOI-BLM-NM-F010-2019-0086) analyzing the potential impacts of the horizontal drilling, production, and final abandonment of four (4) wells (KWU #768H, KWU #769H, KWU #770H, KWU #771H) and their associated roads, pipelines, well pads and facilities in San Juan County, New Mexico. The BLM signed a Finding of No Significant Impact (FONSI) for this project on April 27, 2016, and a Decision Record on April 27, 2016. On March 11, 2015, plaintiffs Diné Citizens Against Ruining Our Environment, San Juan Citizens Alliance, WildEarth Guardians, and Natural Resources Defense Council filed a petition in United States District Court for the District of New Mexico alleging that the BLM violated the Administrative Procedure Act, National Environmental Policy Act (NEPA), and the National Historic Preservation Act (NHPA) by approving this project and others from the BLM Farmington Field Office. On April 23, 2018, the district court issued a Final Judgment and Memorandum Order and Opinion dismissing all of Plaintiffs' claims against the BLM with prejudice. The plaintiffs appealed and on May 7, 2019, the U.S. Tenth Circuit Court of Appeals published an opinion affirming in part and reversing in part the district court's decision.

The Tenth Circuit held that the BLM did not violate NHPA because (i) the governing protocol between the BLM and the state did not require setting a separate "area of potential effects" (APE) to analyze indirect effects and the BLM considered effects outside the APEs; (ii) there are no historic properties within any APEs so no cumulative impacts will result; and (iii) consultation with the state was unnecessary because application of the standard APE demonstrated that the drill permits were not complicated or controversial. The Tenth Circuit affirmed the district court's dismissal of plaintiffs' NHPA claim. As for plaintiffs' NEPA claims, the Tenth Circuit held that the BLM properly tiered to the applicable 2003 Farmington Field Office Resource Management Plan (RMP) and EIS that analyzed

drilling impacts for the region. The Tenth Circuit stated that the BLM needed to--but did not--consider the cumulative impacts of water resources associated with 3,960 wells identified in the BLM's 2014 Reasonably Foreseeable Development Scenario (RFDS), which the BLM prepared in anticipation of the pending Mancos Shale RMP. For this reason, the Tenth Circuit remanded the matter to the district court with instructions to vacate the FONSI and APDs associated with EAs 2014-0272, 2015-0036, 2015-0066, 2016-0029, and 2016-0200/2016-0076. On June 28, 2019, the district court issued its order to the BLM to conduct proper NEPA analysis. The BLM has prepared the additional NEPA analysis of cumulative impacts of water resources required by the court and also updated its air impacts analysis in EA DOI-BLM-NM-F010-2019-0086. The BLM has not revisited its NHPA analysis because the analysis was upheld by the district court and the Tenth Circuit and the BLM found no new impacts to historic properties as a result of its updated water and air analysis in EA DOI-BLM-NM-F010-2019-0086.

During the litigation described above, the operator proceeded with the project. Currently the well pad, access road and KWU 771H well have been drilled and completed. The remaining wells, KWU 768H, 769H, and 770H have been drilled, but not yet completed. All wells are currently shut in. Upon receipt of the district court's order, the BLM ordered the wells shut-in until such time as the BLM could prepare new NEPA analysis.

The development of four (4) APDs, subject to lease stipulations and mitigation measures derived from the current 2003 Farmington Resource Management Plan (RMP) and Record of Decision (BLM 2003) for the area, was analyzed in the EA under the Proposed Action. Under the Proposed Action, the BLM Authorizing Officer has the authority to approve, deny, or approve with conditions the development of the four (4) subject APDs, through the analysis of potential impacts presented in this EA. A No Action Alternative was also analyzed in the EA wherein none of the APDs would be approved and current management would continue. No additional alternatives were identified.

This Finding of No Significant Impact (FONSI) has been prepared for the Proposed Action Alternative.

### **Finding of No Significant Impact**

Based on the content of EA DOI-BLM-NM-F010-2019-0086, which analyzed potential impacts from the approval and development of four (4) APDs and considering the criteria for significance provided by the Council on Environmental Quality (CEQ) regulations at 40 CFR § 1508.27, I have determined that developing the four (4) APDs as analyzed under the Proposed Action of the EA does not constitute a major Federal action that will have a significant effect on the quality of the human environment. Therefore, an Environmental Impact Statement is not required.

The Proposed Action, to lease parcels for oil and gas development, and its effects have been evaluated in a manner consistent with the Council on Environmental Quality regulations for determining *significance*. Per 40 CFR § 1508.27, a determination of significance requires consideration of both context and intensity. Context refers to the relative context in which the action would occur such as society as a whole, affected region, affected interests, etc. Intensity refers to the severity of the impact. As such, the present Finding of No Significant Impact for the Proposed Action is based on the context and intensity of the effects of leasing as described below.

## Context

Under the Proposed Action, the BLM would approve four (4) APDs involving 6.05 acres of BLM administered Federal surface overlaying Federal minerals. All four (4) APDs would access Federal Mineral Lease NMNM 133481X. The proposed project and the associated well pad, access roads, pipelines and temporary work areas are located in Section 17, of Township 23 North, Range 9 West, approximately 35 miles south-southeast of the town of Bloomfield, New Mexico; 4.8 miles southwest of Nageezi, New Mexico.

The APDs were evaluated under the current Farmington Resource Management Plan (RMP) and Record of Decision (BLM 2003). The APDs are pursuant to valid and existing lease (NMNM 004958) issued with stipulations consistent with the Farmington Resource Management Plan (RMP) and Record of Decision (BLM 2003). APD mitigation measures, conditions of approval and lease stipulations were applied to approval of the APDs in accordance with the RMP and ROD (BLM 2003) and operator proposed design features were incorporated into the Proposed Action, with the potential impacts of the Proposed Action analyzed accordingly. Design features and resource specific mitigation measures can be found in Chapters two (2) (design features) and three (3) (mitigation measures).

In the EA, the future potential development of the nominated parcels was projected to result in four (4) wells, one (1) access road (0.04 acres of disturbance), one well pad (5.91 acres of disturbance), and one well-connect pipeline corridor (0.1 acres of disturbance) result in approximately 6.05 acres of surface disturbance, and produce an estimated 145,000 barrels of oil and 4,479,000 Mcf (metered cubic feet) of gas.

The APDs fall within San Juan County in northwestern New Mexico. Within this county, as well as in the area immediately surrounding the proposed APDs, there already exists oil and gas development. All of the APDs analyzed under the Proposed Action fall within the San Juan Basin, which has been producing oil since a discovery near the Chaco Slope in 1911. The San Juan Basin is now one of the largest petroleum-producing basin in the United States, containing over 300 oil fields and nearly 40,000 oil/gas wells, producing 42.6 trillion cubic feet of gas and 381 million barrels of oil. Federal, private, indian, indian allotted and state wells are also found in this area. Oil and gas development and its attendant industry have become identifying components of the economic and social fabric of the region. Affected interests include public health, water quality and quantity, air quality, climate, cultural resources, and the economics of the community. The intensity of the effects to the affected interests, including public health, water quality and quantity, air quality, climate, cultural resources, and the economics of the community, are minimal.

## Intensity

The following discussion is organized around the 10 Significance Criteria described at 40 CFR 1508.27. The following have been considered in evaluating intensity for this proposal:

1. **Impacts that may be both beneficial and adverse.**

Potentially beneficial and adverse impacts related to the Proposed Action were disclosed and analyzed in the EA in Chapter 3. Design features to reduce impacts across a variety of resources were incorporated into the design of the Proposed Action, resource based mitigation measures which mitigate impacts beyond the design features were discussed and analyzed in Chapter 3 as well. In addition, existing law, regulation, and policy pertaining to the rules of oil and gas development further reduce and mitigate impacts to resources. Refer to Chapter 3 for details/analysis on potential impacts (both adverse and beneficial).

## **2. Degree of effect on public health and safety.**

The following design features have been included in the proposed action to address any impacts to public health and safety and are described in the Proposed Action in Chapter 2 of the EA. There are no known residences within one mile of the Proposed Action. The nearest hospital is in Farmington, NM, and is approximately 50 air miles from the Proposed Action. The proposed action achieves the balance of resource protection and beneficial uses of the human environment envisioned by the national environmental policy.

- Worker safety incidents would be reported to the BLM-FFO as required under Notice to Lessees (NTL) - 3A (U.S. Geological Survey 1979). The Operator would adhere to company safety policies, Occupational Safety and Health Administration regulations, and Department of Transportation regulations.
- No toxic substances would be stored or used within the proposed project area. Any wastes would be handled and disposed of following appropriate federal, state, and local laws and regulation.
- During the drilling, completion and production of the well, there will not be any hazardous substances, as defined in 40 CFR 355, or subject to reporting under SARA Title III greater than 10,000 pounds in weight, used, produced, stored, transported or disposed of annually at the well site. Waste resulting from project activities would be removed from the proposed project area and disposed of in an authorized area, such as an approved landfill and would be handled and disposed of according to federal law. Any spills of non-freshwater liquid will be reported to the BLM-FFO and the New Mexico Oil Conservation District office within 48-hours. The spill will be cleaned up immediately and transferred to an approved disposal facility. The proposed project areas would be maintained in a sanitary condition. The Operator would provide self-contained portable toilets for human waste disposal. Upon completion of operations, or as needed, the Operator would pump the toilet holding tanks and haul the contents to an approved disposal facility. The Operator would observe all applicable regulations pertaining to disposal of human and solid wastes.
- The Operator would have inspectors present during construction. Any accidents involving persons or property would immediately be reported to the BLM-FFO.
- The Operator would notify the public of potential hazards by posting signage, as necessary.

## **3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.**

Within or adjacent to the nominated parcels there are no prime farmlands, wetlands, wild and scenic rivers or Areas of Critical Environmental Concern (ACECs) or Specially Designated Areas (SDAs). The FFO does not contain any prime and unique farmlands, suitable or designated wild and scenic rivers, or designated caves. The Proposed Action and alternatives are not located within an Area of Critical Environmental Concern. Impacts to historic or cultural resources are described in the EA and discussed further under item 8.

**4. Degree to which the possible effects on the quality of the human environment are likely to be highly controversial.**

Controversy in this context refers to disagreement about the nature of the effects, not expressions of opposition to the Proposed Action or preference among the alternatives (BLM NEPA Handbook, 2008, page 71).

The degree to which the Proposed Action is likely to be highly controversial is low. Oil and gas exploration and development is a common practice on public lands in northwest New Mexico. The nature of these activities and the resulting and potential impacts have been analyzed, making use of the best-available scientific data, and disclosed to the public through existing BLM NEPA documents, including the overarching RMP/ROD for the planning area, as well as in the present EA.

Oil and gas development has occurred in the San Juan Basin for more than 60 years. While there may be controversy over the appropriateness of oil and gas development, there is not a high level of controversy or substantial scientific dispute over the impacts of that activity. These impacts of the proposed activities are described in Chapter 3 of the EA.

**5. Degree to which the possible effects on the quality of the human environment are highly uncertain or involve unique or unknown risk.**

The degree to which the possible effects on the quality of the human environment are thought to be highly uncertain or involve unique or unknown risk owing to the Proposed Action is low. The BLM has been permitting and managing oil and gas development in the planning area since its inception and, accordingly, has extensive experience implementing oil and gas development and assessing and disclosing correlated environmental effects to the human environment. Moreover, oil and gas exploration and development have been, and continue to be, studied and are regulated for health and safety through multiple agencies, including Federal, state, and local governments. Therefore, there are no predicted effects on the human environment owing to the Proposed Action that are considered to be highly uncertain or involve unique or unknown risks. In addition, the projected potential effects to the quality of the human environment owing to oil and gas leasing and development have been analyzed and disclosed in the overarching RMP/ROD for the planning area, as well as in the present EA.

**6. Degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.**

The action is not precedent setting, nor does it represents a decision in principle about a future consideration. The Proposed Action to develop four (4) APDs follows the same process and procedures used for previous oil and gas lease development proposals in the BLM Farmington Field Office, and



elsewhere across the BLM. As such, it is compliant with applicable law and policy, including the National Environmental Policy Act, as well as additional, internal BLM policies and procedures.

**7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.**

Developing the leases under the Proposed Action contributes to cumulative effects on a number of resource areas. These cumulative effects are discussed, analyzed, and disclosed in the present EA (refer to Chapter 3). The range of cumulative effects falls within those already disclosed in the 2003 Farmington Field Office RMP, which considered the cumulative impact of leasing as well as oil and gas development on resources in areas open to oil and gas development, as well as other actions that were anticipated to have similar impacts on resources. As set forth in the EA, the foreseeable GHG emissions of the proposed lease sale, when compared to the reasonably foreseeable past, present, and future potential emissions of the state and nation as well as the foreseeable downstream GHG emissions, will incrementally contribute to global GHG emissions with de minimis impacts to cumulative GHG emissions. As set forth in the EA, any foreseeable impacts to water quantity and quality in the area from the proposed development are mitigated through applicable stipulations and best management practices such that any impacts will be de minimis.

**8. Degree to which the action may adversely affect district, sites, highways, structures, or objects listed on the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.**

The Proposed Action is not anticipated to create a high degree of impacts to sites/objects on the National Register of Historic Places or to cause significant adverse loss or destruction of significant scientific, cultural, or historical resources. All APDs analyzed under the Proposed Action are developing leases that already have stipulations to mitigate or eliminate potentially significant impacts to cultural resources. Further site specific NEPA analysis, as Class one (1) and Class three (3) surveys were performed by BLM and contract archeologists. The proposed action would have no direct or indirect impact on significant cultural sites. An informational letter was sent to the New Mexico State Historic Preservation Officer, notifying them of the no effects to historic properties finding. With respect to potential impacts to Native American traditional cultural and religious concerns, by way of the Government to Government consultation process, no specific Native American traditional cultural and religious concerns were identified at the time the EA was completed.

**9. Degree to which the action may adversely affect an endangered or threatened species or its critical habitat.**

The Proposed Action is not likely to adversely affect any endangered or threatened species or its critical habitat. At this time, no endangered or threatened species or habitat are located in either of the parcels under evaluation for lease. Section 1.6 of the EA discusses Issues Analyzed in Brief, where it was determined that endangered or threatened species or their critical habitat do not have the potential to exist

within the project area. An in house biological report was performed to review the findings of the Biological Report submitted with the APD. It was determined that consultation with the USFWS was not necessary based on the No Effects findings. Furthermore, the 2003 Farmington Field Office RMP is based on the analysis of the PRMP/FEIS (BLM 2003) which conducted consultation with the USFWS regarding the implementation of the RMP. Concern for listed fish species and habitat may exist from the usage of surface water for the drilling or construction of any part of this project. All water for this project will be obtained from geologic sources, and purchased commercially from the Blanco Trading Post (SJ-2105), therefore not affecting any potential surface waters that could have impacts to listed fish species.

**10. Whether the action threatens a violation of Federal, state, or local environmental protection law.**

The Proposed Action does not violate any Federal, state, local, or Tribal law, regulation, or policy imposed for the protection of the environment. This project is consistent with applicable laws, land management plans, and policies. The public was given opportunity to participate in the environmental analysis process through a public comment and scoping period of the draft EA, following publication of the proposed action on the BLM's E-Planning website.


**Conclusion**

Therefore, on the basis of the information contained in the EA DOI-BLM-NM-F010-2019-0086, and all other information available to me at this time, it is my determination that:

1. None of the environmental effects identified meet the definition of significance as defined by context and intensity considerations at 40 CFR § 1508.27.
2. The alternatives are in conformance with land-use planning requirements in 43 CFR § 1610.5-7(c) and §3420.1-4.
3. The Proposed Action does not constitute a major Federal action having a significant effect on the human environment.

Therefore, neither an Environmental Impact Statement nor a supplement to the existing EA is necessary and neither will be prepared.

  
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Mark Mathews  
Acting Field Manager  
BLM Farmington Field Office

  
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Date